

Health Care Financing Administration, HHS

§ 403.200

(b) The General Counsel may compromise a penalty or assessment imposed under this part, after consultation with HCFA or OIG, and the Federal government may recover the penalty or assessment in a civil action brought in the United States district court for the district where the claim was presented or where the respondent resides.

(c) The United States or a State agency may deduct the amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, from any sum then or later owing to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(e) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

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AUTHORITY: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart A—[Reserved]

Subpart B—Medicare Supplemental Policies

SOURCE: 47 FR 32400, July 26, 1982, unless otherwise noted.

§ 403.200 Basis and scope.

(a) *Provisions of the legislation.* This subpart implements, in part, section

1882 of the Social Security Act. The intent of that section is to enable Medicare beneficiaries to identify Medicare supplemental policies that do not duplicate Medicare, and that provide adequate, fairly priced protection against expenses not covered by Medicare. The legislation establishes certain standards for Medicare supplemental policies and provides two methods for informing Medicare beneficiaries which policies meet those standards:

(1) Through a State approved program, that is, a program that a Supplemental Health Insurance Panel determines to meet certain minimum requirements for the regulation of Medicare supplemental policies; and

(2) In a State without an approved program, through certification by the Secretary of policies voluntarily submitted by insuring organizations for review against the standards.

(b) *Scope of subpart.* This subpart sets forth the standards and procedures HCFA will use to implement the voluntary certification program.

GENERAL PROVISIONS

§ 403.201 State regulation of insurance policies.

(a) The provisions of this subpart do not affect the right of a State to regulate policies marketed in that State.

(b) Approval of a policy under the voluntary certification program, as provided for in § 403.235(b), does not authorize the insuring organization to market a policy that does not conform to applicable State laws and regulations.

§ 403.205 Medicare supplemental policy.

(a) Except as specified in paragraph (d) of this section, *Medicare supplemental policy* (policy) means a health insurance policy or other health benefit plan—

(1) That a private entity offers to a Medicare beneficiary; and

(2) That is primarily designed, or is advertised, marketed, or otherwise purported to provide payment for expenses incurred for services and items that are not reimbursed under the Medicare program because of deductibles, coin-

surance, or other limitations under Medicare.

(b) Unless otherwise specified in this subpart, the term *policy* includes both policy form and policy.

(1) *Policy form* means the form of health insurance contract that is approved by and on file with the State agency for the regulation of insurance.

(2) *Policy* means the contract—

(i) Issued under the policy form; and

(ii) Held by the policyholder.

(c) Medicare supplemental policy includes the following—

(1) An individual policy.

(2) A group policy.

(d) Medicare supplemental policy does not include a Medicare+Choice plan or any of the following health insurance policies or health benefit plans:

(1) A policy or plan of one or more employers for employees, former employees, or any combination thereof.

(2) A policy or plan of one or more labor organizations for members, former members, or any combination thereof.

(3) A policy or plan of the trustees of a fund established by one or more labor organizations, one or more employers, or any combination, for any one or combination of the following—

(i) Employees.

(ii) Former employees.

(iii) Members.

(iv) Former members.

(4) A policy or plan of a profession, trade, or occupational association, if the association—

(i) Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) Has been maintained in good faith for a purpose other than obtaining insurance; and

(iii) Has been in existence for at least two years before the date of its initial offering of a Medicare supplemental health insurance policy to its members.

(5) For purposes of the voluntary certification program, a policy issued to an employee or to a member of a labor organization as an addition to a franchise plan (a plan that enables members of the same entity to purchase an individual policy marketed to them under group underwriting procedures),